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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/025,880	12/26/2001	Charles J. Rieger III	2051.0020001	2236

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EXAMINER

BATURAY, ALICIA

ART UNIT PAPER NUMBER

2155

DATE MAILED: 02/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/025,880

Applicant(s)

RIEGER, CHARLES J.

Examiner

Alicia Baturay

Art Unit

2155

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 59-109 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 59-109 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12202002.01172003.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. This Office Action is in response to the amendment filed 16 December 2005.
2. Claims 1-58 were cancelled.
3. Claims 59-109 were added.
4. Claims 59-109 are pending in this Office Action.

Response to Amendment

5. The objection to claims 1, 9, 15, 17, 21, 28, 36, 40, 52 and 56 regarding outline format is moot due to cancellation of aforementioned claims.
6. The rejection of claims 9, 40 and 50 under 35 U.S.C. § 112, 2nd paragraph regarding indefiniteness is moot due to cancellation of aforementioned claims.
7. Applicant's amendments and arguments with respect to claims 1-58 and new claims 59-109 filed on 16 December 2005 have been fully considered but they are deemed to be moot in view of the new grounds of rejection.

Double Patenting

8. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least

Art Unit: 2155

one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-19 of patent #6,654,800 contain every element of claims 59-78 and 93-109 of the instant application and as such anticipate claim 59-78 and 93-109 of the instant application.

“A later patent claim is not patentably distinct from an earlier patent claim if the later claim is obvious over, or anticipated by, the earlier claim. *In re Longi*, 759 F.2d at 896, 225

Art Unit: 2155

USPQ at 651 (affirming a holding of obviousness-type double patenting because the claims at issue were obvious over claims in four prior art patents); In re Berg, 140 F.3d at 1437, 46 USPQ2d at 1233 (Fed. Cir. 1998) (affirming a holding of obviousness-type double patenting where a patent application claim to a genus is anticipated by a patent claim to a species within that genus). “ ELI LILLY AND COMPANY v BARR LABORATORIES, INC., United States Court of Appeals for the Federal Circuit, ON PETITION FOR REHEARING EN BANC (DECIDED: May 30, 2001).

9. Claims 59-78 and 93-109 are rejected under 35 U.S.C. 101 as claiming the same invention of that of claims 1-19 of prior U.S. Patent number 6,654,800 since the claims, if allowed, would improperly extend the “right to exclude” already granted in the patent. This is a double patenting rejection.

10. The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows:

The claimed invention in the instant application (claims 59-78 and 93-109) is the same as the claimed invention in the patent (claims 1-19 or prior U.S. Patent No. 6,654,800) by deleting the limitation of “the geographical location *of the user*” (claims 59 and 93). No new invention or new improvement is being claimed in the instant application (claims 59-78 and 93-109).

Furthermore, there is no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of the application, which matured into a patent. See also MPEP § 804.

11. Dependent claims 79-92, which are not specifically cited above in the double patenting rejections, are objected to because of the deficiencies of their respective parent claim, claim 78.

Claim Rejections - 35 USC § 102

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

13. Claims 59-109 are rejected under 35 U.S.C. 102(e) as being anticipated by Sotiroff et al. (U.S. 5,852,810), Johnstone et al. (U.S. 5,898,680) and Serdy et al. (U.S. 5,990,886).

Sotiroff teaches the invention substantially as claimed including a geographic-specific information search system configured to display a graphical map and to allow the user to narrow the geographic search area to the desired region (see Abstract).

14. With respect to claims 59-78 and 93-109, Sotiroff teaches a method of communicating postings to a target user community (col. 1, line 64 – col. 3, line 9) comprising: storing a plurality of postings (see Fig. 3), each posting including a source identification tag, an information body, and a broadcast descriptor, the broadcast descriptor identifying a geographical region of the each posting, wherein the geographical region is defined by a closed region on a map; receiving a plurality of requests from mobile and stationary users, each request from a user including a user identification tag and an antenna descriptor, the antenna descriptor identifying a geographical location (Johnstone, col. 10, line 48 – col. 11, line 58); processing the each request, including: identifying one or more postings having geographical regions that contain the geographical location, and sending the identified one or more postings to the user; processing a subsequent request from the user, the subsequent request including a user identification tag and an antenna descriptor specifying a subsequent geographical location, the processing a subsequent request from the user including: sending to the user other postings having geographical regions that contain the subsequent geographical location, where the other postings do not include any posting previously sent to the user (Sotiroff, col. 3, line 40 – col. 6, line 62), (Johnstone, col. 7, line 19 – col. 15, line 42) and (Serdy, Figs. 3-9 and col. 4, line 11 – col. 6, line 64).
15. With respect to claim 79, Sotiroff teaches the invention described in claim 28, including the system further comprising a map manager for generating geographical map views covering the target user community (Sotiroff, col. 4, lines 36-47).

16. With respect to claim 80, Sotiroff teaches the invention described in claim 29, including the system further comprising a user interface for accepting a personal icon to be associated with a user account (Sotiroff, col. 4, line 65 – col. 5, line 4).
17. With respect to claim 81, Sotiroff teaches the invention described in claim 30, including the system where the personal icon is a visible element in the postings (Sotiroff, col. 4, line 65 – col. 5, line 4).
18. With respect to claim 82, Sotiroff teaches the invention described in claim 31, including the system further comprising a virtual antenna (Sotiroff, col. 4, lines 53-65).
19. With respect to claim 83, Sotiroff teaches the invention described in claim 32, including the system where the postings manager is configured to display a visible graphical element representing the virtual antenna on the geographical map views (Sotiroff, col. 4, lines 53-65).
20. With respect to claim 84, Sotiroff teaches the invention described in claim 33, including the system where a user is permitted to activate the visible graphical element thereby causing a user-defined URL to be opened and displayed on at least one of the plurality of client computers (Sotiroff, col. 4, lines 56-65; col. 2, lines 48-53).
21. With respect to claim 85, Sotiroff teaches the invention described in claim 32, including the system further comprised of a plurality of ping topics associated with the virtual antenna,

each the ping topic comprising a ping topic keyword pattern and a ping topic response (Sotiroff, col. 5, lines 15-26).

22. With respect to claim 86, Sotiroff teaches the invention described in claim 28, including the system where the postings manager is configured to accept a photo attachment, the photo attachment comprising a digital photograph, descriptive information about the digital photograph, and behavioral preferences associated with the digital photograph (Sotiroff, col. 4, line 65 – col. 5, line 4).

23. With respect to claim 87, Sotiroff teaches the invention described in claim 36, including the system where the photo attachment is associated with an attachment point, the attachment point being a point on the geographical map views (Sotiroff, col. 4, line 65 – col. 5, line 4).

24. With respect to claim 88, Sotiroff teaches the invention described in claim 28, including the system where the postings manager is further configured to enable a plurality of user dialogs, each the user dialogs comprising a plurality of messages between a source user and a recipient user (Sotiroff, col. 5, lines 15-26).

25. With respect to claim 89, Sotiroff teaches the invention described in claim 28, including the system further comprising a channel tree comprising a plurality of named system channels interrelated hierarchically (Sotiroff, col. 4, lines 30-47). The results from the search

Art Unit: 2155

return several points of interest located within a city, and then the user is invited to select individual points of interest from that location for further information.

26. With respect to claim 90, Sotiroff teaches the invention described in claim 39, including the system further comprising a plurality of user channels, each of the user channels being owned by the user and comprising a name, a parent system channel, the parent system channel being one of the plurality of named system channels, and a region descriptor (Sotiroff, col. 5, lines 38-54).

27. With respect to claim 91, Sotiroff teaches the invention described in claim 28, including the use of virtual antennas (Sotiroff, col. 4, lines 53-65).

Sotiroff does not explicitly teach the user antenna being mobile.

However, Johnstone teaches the system further comprising a mobile antenna (Johnstone, col. 11, lines 13-15).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Sotiroff in view of Johnstone in order to enable the use of a mobile antenna. One would be motivated to do so in order to enable automatically providing the users with location-specific information within the area of their current position.

28. With respect to claim 92, Sotiroff teaches the invention described in claim 28, including the system further comprising an account manager for assigning each user an account type, the account type comprising a system feature table and a usage limits table (Sotiroff, col. 5,

Art Unit: 2155

lines 15-37). The user is limited to searching database, but the lessors can establish and maintain listings in the database.

Response to Arguments

29. Applicant's arguments filed 16 December 2005 have been fully considered, but they are not persuasive for the reasons set forth below.

Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Art Unit: 2155


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia Baturay whose telephone number is (571) 272-3981. The examiner can normally be reached at 7:30am - 5pm, Monday - Thursday, and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on (571) 272-4006. The fax number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Alicia Baturay
February 21, 2006


SALEH NAJJAR
SUPERVISORY PATENT EXAMINER